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March 20, 2024

BY ECF

The Honorable Valerie E. Caproni
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: *Reclaim the Records and Alec Ferretti v. United States Department of State*, No. 23 Civ. 1529 (VEC)

Your Honor:

I am counsel to Plaintiffs in the above-referenced action. The action was brought pursuant to the Freedom of Information Act ("FOIA") following Defendant's failure to respond to Plaintiffs' FOIA request seeking a copy of the index to all Consular Records of Births and Deaths Abroad held by the State Department.

We write with the consent of the Defendant to request permission to supplement our filings to include an Expert Declaration and a Supplemental Memorandum of Law in Opposition, and to adjust the remaining filing deadlines accordingly. Plaintiffs have retained the services of an expert witness in a closely related case, *Reclaim the Records v. Department of State*, 23 Civ. 1650 (JPC). In that case, with the same Assistant United States Attorney, another motion for summary judgment is being briefed concerning issues very similar to those in the present matter. Specifically, the technical capacities of an Agency database are common to both cases. Our proposed expert will be submitting a Declaration as to his views on the issue in 23 Civ. 1650, based on his significant professional experience and expertise in this area.

The Honorable Valerie E. Caproni

March 20, 2024

Page 2

Plaintiffs are requesting permission to supplement our filings in the present matter to include a Declaration from the proposed expert and to supplement our existing Memorandum of Law in Opposition (Dkt. 38) by no more than a single page for the sole purpose of incorporating the expert's views on the issue identified above. It is Plaintiffs' view that this supplemental material will prove useful to the Court on the technical issues, and that the short delay involved will have no deleterious impact on the parties or be unfair to Defendant. While Defendant does not oppose this request, Defendant does not concede that Plaintiffs' proposed introduction of expert testimony in this matter will be appropriate or relevant. Your Honor has adjusted this briefing schedule on one prior occasion.

Should Your Honor grant this request, the parties have agreed to the timeline below, which incorporates Defendant's counsel's pre-scheduled vacation dates of April 16-29 and the resulting need to reshuffle deadlines in his other cases:

- Plaintiffs' Supplemental Declaration and Supplemental Memorandum of Law in opposition will be due April 1, 2024.
- Defendant's Reply will be filed May 24, 2024 (changed from March 26, 2024).

We thank the Court for its attention to this matter.

Respectfully submitted,


Benjamin Meyers

cc: Defendant's counsel (by ECF)